

Exhibit 40

From: Levitt, Jamie A.
Sent: 5/5/2012 10:04:46 PM
To: Jerry@talcottfranklin.com
Cc: Devine, Timothy; Tal@talcottfranklin.com; paul@talcottfranklin.com; Lee, Gary S.; Hamzehpour, Tammy
Subject: Re: Meeting Monday 9 am Eastern at Morrison & Foerster NYC

Jerry,

We are fine with your changes, except the following two that we cannot accept:

1. On Page 2, please delete the added language regarding Schedule 1: "by written notice to Talcott of the information to be disclosed as far in advance of its disclosure as practicable and, upon request, such Person must use all reasonable commercial efforts to obtain assurances that confidential treatment will be accorded to such information." We think we provided more than adequate protections already for the confidentiality of Ex I and cannot be bound to your additional language.
2. On Page 3, please delete the language you added re use of Eval Material in court: "except to rebut a statement or filing made in a court of law or equity that materially misrepresents or is contrary to Evaluation Material provided to Talcott, and only then not without a court order based on a hearing after notice where such hearing includes an in camera viewing by the court of the disputed statement or filing and related Evaluation Material." This is precisely what you cannot do and we will not be able to share Eval Material with you if you wish to use it in court in any fashion.

Finally, we thought Deutsche Bank Trust Co. Americas and QO3 Investors LLC were within your plaintiff group. If so, please add them to Schedule I.

Jerry, if agreeable to you, please make the changes above and circulate the NDA for signature.

Thanks.

Jamie

From: Jerry Phelps
To: Lee, Gary S.
Cc: Timothy.Devine@ally.com ; Talcott J. Franklin ; Paul Snyder ; Levitt, Jamie A.
Sent: Fri May 04 18:09:56 2012
Subject: Meeting Monday 9 am Eastern at Morrison & Foerster NYC

Here are the NDA with our changes and a Schedule I. We adapted the NDA to reflect our position as legal counsel rather than as a purchaser, made confidentiality protections reciprocal, and limited the NDA restrictions to the Evaluation Material in one or two places. Blacklined NDA attached also.

F. Jerry Phelps, Of Counsel
Talcott Franklin P.C.
Cell: 214-505-2680
Direct: 972-423-0681
Main: 214-736-8730
Jerry@talcottfranklin.com

From: <Levitt>, Jamie Levitt <jlevitt@mofo.com>
To: "F.J. Phelps" <jerry@talcottfranklin.com>
Cc: Timothy Devine <Timothy.Devine@ally.com>, Tal Franklin <tal@talcottfranklin.com>, Paul Snyder <paul@talcottfranklin.com>, "Lee, Gary S." <GLEe@mofo.com>
Subject: RE: Meeting Tomorrow?

Jerry,

Thanks.

Jamie

From: Lee, Gary S.
Sent: May 03, 2012 3:02 PM
To: 'Jerry@talcottfranklin.com'
Cc: Levitt, Jamie A.; 'Timothy.Devine@ally.com'; 'Tal@talcottfranklin.com'; 'paul@talcottfranklin.com'
Subject: Re: Meeting Tomorrow?

Thanks Jerry.

Gary S. Lee
Morrison & Foerster LLP
1290 Avenue of the Americas
New York, NY 10104-0050
T. 212.468.8042
F. 212.468.7900
glee@mofo.com

From: Jerry Phelps
To: Lee, Gary S.
Cc: Levitt, Jamie A.; 'Timothy.Devine@ally.com' ; Talcott J. Franklin; Paul Snyder
Sent: Thu May 03 14:45:08 2012
Subject: Re: Meeting Tomorrow?

OK. Paul D. Snyder and I (full name is Francis Jerry Phelps) will attend the meeting the 9 am meeting in your offices. We will send you a client list.

Thanks

On May 3, 2012, at 11:26 AM, Lee, Gary S. wrote:

Jerry, I know its not ideal but will you be able to cover a 9am start monday? We have some material timing issues.

Gary S. Lee
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From: Jerry Phelps
To: Levitt, Jamie A.; Devine, Timothy
Cc: Talcott J. Franklin ; Paul Snyder ; Lee, Gary S.
Sent: Thu May 03 11:03:17 2012
Subject: Re: Meeting Tomorrow?

In a prior email Tal had indicated that he is in NYC on trial on Monday. He is available before trial, starting at

On May 3, 2012, at 8:23 AM, Levitt, Jamie A. wrote:

We are available at 9am NY time on Monday. Please confirm that works for you and if you will be calling or coming in person. If anyone us coming in person, I will need names for our security desk.

Thanks.

Jamie

From: Devine, Timothy [<mailto:Timothy.Devine@ally.com>]
Sent: May 02, 2012 10:49 PM
To: 'Tal@talcottfranklin.com'; 'paul@talcottfranklin.com'; 'Jerry@talcottfranklin.com'; Levitt, Jamie A.
Subject: Re: Meeting Tomorrow?

Thanks Tal. Will get back to you re timing. Tomorrow is tight, friday won't work, so perhaps Monday. Can do in person in NY or by net meeting.

Jamie Levitt from MoFo will send you nda.

Thanks.

Tim

From: Talcott J. Franklin <Tal@talcottfranklin.com>
To: Devine, Timothy; Paul Snyder <paul@talcottfranklin.com>; Jerry Phelps <Jerry@talcottfranklin.com>
Sent: Wed May 02 19:58:09 2012
Subject: Re: Meeting Tomorrow?

Tim:

Please reply all with the NDA. On meeting, are we talking in person or by phone? In person I can meet on Friday. Tomorrow I am in trial but could talk after 5, if that doesn't work, Paul and/or Jerry can handle it for me. In any event, we do want to meet.

Tal

From: "Devine, Timothy" <Timothy.Devine@ally.com>
Date: Wed, 2 May 2012 12:32:26 -0500
To: Talcott Franklin <tal@talcottfranklin.com>
Subject: Meeting Tomorrow?

Tal: sorry for quiet period -- we're swamped -- do you have time to meet tomorrow, along the lines you and I previously discussed?
We can share current status of the potential filing, various outcomes through the "waterfall" depending on different potential scenarios.

If so, we'll send you an nda. I can talk later this evening.

If tomorrow doesn't work, how does Monday midday look?

Thanks Tal.

Tim

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